THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 4678 of 2007

Dated: 02.11.2007

Between:

Sri Madala Srinivasa Rao

... Petitioner

AND

The Hospital Developmental Society,
Government General Hospital, Guntur,
Rep., by its Convenor and another.

... Respondents

Counsel for the petitioner : Sri N. Narasimha Rao

Counsel for the respondents : Government Pleader for
Medical, Health & Family Welfare

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WRIT PETITION No. 4678 of 2007

ORDER:-

This writ petition is filed for a writ of mandamus to set aside notification Rc.No.1587/HDS/2001 dated 19.02.2007 issued by respondent No.1, as the same is illegal and arbitrary.

In response to a tender notification issued by respondent No.1, the petitioner participated in the auction for leasing the right to run a commercial canteen in the premises of Government General Hospital, Guntur. The contract was awarded in favour of the petitioner whose bid of Rs.4,26,000/- per year was accepted. The period of contract is two years commencing from 01.04.2005. As the said period is coming to an end, the petitioner made a representation on 24.02.2007 to the respondents to extend the period of contract by one more year on account of certain difficulties faced by him. Since the said representation was not considered and a fresh tender notice was issued on 19.02.2007, the present writ petition is filed questioning the same.

Learned counsel for the petitioner submitted that the very fixation of two years term is contrary to G.O.Ms.No.32 dated 02.02.2005. Therefore, the respondents ought to have extended the contract at least for another period of one year as envisaged in G.O.Ms.No.32 dated 02.02.2005. He further submitted that the petitioner on account of certain events that have taken place,

which were enumerated in his representation dated 24.02.2007, is entitled to extension of the contract.

Dr. B. Mohan Rao, Superintendent, Government General Hospital, Guntur, who is respondent No.2, filed a counter-affidavit in which it is *inter alia* stated that G.O.Ms.No.32 dated 02.02.2005 relates only to the DIET contracts and that the commercial contracts like the one, which is the subject matter of the present writ petition, is covered by G.O.Ms.No.604 dated 15.12.1998. It is further stated that under the said G.O., a maximum period of two years is prescribed for award of the contract and that therefore the respondents have no power to fix the term of the commercial contract beyond the period of two years.

Heard Sri N. Narasimha Rao, learned counsel for the petitioner and the learned Government Pleader for Medical, Health and Family Welfare.

Learned Government Pleader submitted that since the period of contract is confined only to two years, the petitioner has no vested right in seeking extension of the contract.

A perusal of the material on record shows that the nature of contract entrusted to the petitioner is purely a commercial contract. Therefore, ordinarily, this Court would not exercise its jurisdiction to adjudicate disputes arising out of non-statutory commercial contracts. The petitioner cannot claim an exception with respect to his contract in respect of which the present writ petition is filed. Therefore, in my opinion, the writ petition itself is liable to be rejected on this ground.

Even otherwise, the main contention of the learned counsel for the petitioner as contended in the affidavit filed in support of the writ petition that the minimum period of contract ought to be three

years is raised on the premise that G.O.Ms.No.32 dated 02.02.2005 applies to the petitioner's case, but a perusal of the said G.O. reveals that it applies only to the DIET contracts and the petitioner's contract, which is admittedly a contract for running a commercial canteen, is governed by G.O.Ms.No.604 dated 15.12.1998 under which the maximum period of contract is prescribed as two years. Therefore, there is no substance in the contention of the learned counsel for the petitioner that the respondents ought to have extended the period of contract by one more year.

As regards the contention of the learned counsel for the petitioner that due to certain events, the petitioner's business was affected, I am afraid, the said contention cannot be appreciated. If the petitioner suffered loss on account of the reasons attributable to the respondents, it is always open to him to avail the common law remedy by filing a civil suit for claiming damages in an appropriate Court of law.

In the result, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, WPMP.No.5969 of 2007 and WVMP.No.2797 of 2007 filed by the petitioner are also dismissed.

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C.V. NAGARJUNA REDDY, J

Date: 02.11.2007
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